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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,422	10/21/2003	Nancy Pettigrew	315547.01	3824

22971 7590 02/05/2009  
MICROSOFT CORPORATION  
ONE MICROSOFT WAY  
REDMOND, WA 98052-6399

EXAMINER
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FORD, GRANT M

ART UNIT	PAPER NUMBER
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2441

NOTIFICATION DATE	DELIVERY MODE
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02/05/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

roks@microsoft.com  
ntovar@microsoft.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/690,422	PETTIGREW ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	GRANT FORD	2441	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 34-45, 47-53 and 56-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-44, 53 and 56-66 is/are allowed.
- 6) ☒ Claim(s) 45, 47-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 11-20-2008, with respect to the prior art rejection of claims 34-45, 47-53, and 56-66 have been fully considered and are persuasive. The prior art rejection of claims 34-45, 47-53, and 56-66 has been withdrawn. However, upon further consideration, a new grounds of rejection has been presented for claims 45 and 47-52 under 35 USC 101, as outlined below.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. As per claims 45 and 47-52, the claimed invention is directed to non-statutory subject matter. Claims 45 and 47-52 fail to recite tangible interconnection with any physical media and thus are directed to non-statutory subject matter. While independent claim 45 recites a plurality of message switches which are software being executed on one of a plurality of mail servers, non-statutory basis is provided for the phrase mail server in the instant specification at page 6 lines 12-18.

### ***Allowable Subject Matter***

4. Claims 34-44, 53, and 56-66 are allowed.

Art Unit: 2441

5. The following is an examiner's statement of reasons for allowance: In interpreting the claims amended in Applicant's response dated 11-20-2008 and in view of Applicant's arguments, the Examiner finds the claimed invention to be patentably distinct from the prior art of record.

6. The prior art of record fails to teach the limitations of: ***a spam analyzer operable to process a log file received from each of a plurality of message switches, each message switch processing an email against each of the plurality of spam rules... for each match between the processed email and each of the plurality of spam rules, each message switch creating an entry in its log file corresponding to the processed email and the matching spam rule wherein each entry includes the score from each matching spam rule, the spam analyzer operable to update the attributes of at least one of the plurality of spam rules in the database including modifying the score of the at least one of the plurality of spam rules based on statistics calculated from at least one of the log files, wherein the spam analyzer is distinct from each of the plurality of message switches... and a select rules file including one or more select rules from the database of the plurality of spam rules, each of the one or more select rules being included in the select rules file based on its attributes, the select rules file being replicated to each of the message switches***, as claimed in combination with the remainder of limitations present in independent claim 34.

7. **Shipp (US 2004/0093384)** teaches a method and system for processing email in particular to detect unsolicited bulk email. Shipp teaches spam rules having attributes and a score, and processing a file received from a message switch operable to update attributes of at least one of a plurality of spam rules. However, Shipp teaches the logging the spam emails themselves and thus fails to explicitly teach or suggest each message switch creating an entry in its log file corresponding to the processed email and the matching spam rule wherein each entry includes the score from each matching spam rule, as claimed in independent claim 34 (**Shipp, Para. 0014,0028-0030,0035,0080,0100-0101**).

8. **McCormick et al. (US 6,421,709)** teaches an e-mail filter and method thereof. McCormick teaches utilizing database replication technology to replicate new messages within a distributed spam filter. However, as McCormick teaches a global replication of a spam filter database, it fails to explicitly teach or suggest the select rules file including one or more select rules from the database of the plurality of spam rules, each of the one or more select rules being included in the select rules file based on its attributes, where the select rules file is replicated to each of the message switches, as claimed in independent claim 34 (**Col 12 lines 18-38**).

9. **Hart (US 2002/0116463)** teaches unwanted e-mail filtering. Hart teaches filtering rules specified in a rule database, wherein if an email score is determined to be unwanted and crosses a threshold, it is optionally added to the rule database and

Art Unit: 2441

propagated to applicable mail servers. However, Hart fails to explicitly teach or suggest wherein the message switch creates an entry into its log file corresponding to the processed email and the matching spam rule wherein each entry includes the score from each matching spam rule, as claimed in independent claim 34 (**Hart, Para. 0034, 0041-0042, 0045-0046**).

10. Claims 35-44 are allowed because of the combination of other limitations and the limitation listed above, in view of their dependency upon independent claim 34.

11. The prior art of record fails to teach the limitations of: ... ***processing the email message against the spam rules to determine if the email message will be marked as spam, each of the spam rules having attributes including a score, creating a spam information entry in a log file, the spam information entry including the score from each of the spam rules that the processed email message matches, calculating statistics for the spam rules based on the spam information in the log file, updating a database of the spam rules based on the statistics including modifying the score of at least one of the spam rules, and selecting and replicating a set of select rules from the database of the updated spam rules forming a select rules set to the message switch***, as claimed in combination with the remainder of limitations present in independent claim 53.

Art Unit: 2441

12. **Shipp (US 2004/0093384)** teaches a method and system for processing email in particular to detect unsolicited bulk email. Shipp teaches spam rules having attributes and a score, and processing a file received from a message switch operable to update attributes of at least one of a plurality of spam rules. However, Shipp teaches the logging the spam emails themselves and thus fails to explicitly teach or suggest each message switch creating an entry in its log file corresponding to the processed email and the matching spam rule wherein each entry includes the score from each matching spam rule, as claimed in independent claim 53 (**Shipp, Para. 0014,0028-0030,0035,0080,0100-0101**).

13. **McCormick et al. (US 6,421,709)** teaches an e-mail filter and method thereof. McCormick teaches utilizing database replication technology to replicate new messages within a distributed spam filter. However, as McCormick teaches a global replication of a spam filter database, it fails to explicitly teach or suggest the select rules file including one or more select rules from the database of the plurality of spam rules, each of the one or more select rules being included in the select rules file based on its attributes, where the select rules file is replicated to each of the message switches, as claimed in independent claim 53 (**Col 12 lines 18-38**).

14. **Hart (US 2002/0116463)** teaches unwanted e-mail filtering. Hart teaches filtering rules specified in a rule database, wherein if an email score is determined to be unwanted and crosses a threshold, it is optionally added to the rule database and

Art Unit: 2441

propagated to applicable mail servers. However, Hart fails to explicitly teach or suggest wherein the message switch creates an entry into its log file corresponding to the processed email and the matching spam rule wherein each entry includes the score from each matching spam rule, as claimed in independent claim 53 (**Hart, Para. 0034, 0041-0042, 0045-0046**).

15. Claims 56-66 are allowed because of the combination of other limitations and the limitation listed above, in view of their dependency upon independent claim 53.

16. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GRANT FORD whose telephone number is (571)272-8630. The examiner can normally be reached on 8-5:30 Mon-Thurs alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571)272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2441

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/  
Supervisory Patent Examiner, Art  
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Examiner, Art Unit 2441